

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Court Minutes and Order

DATE: September 18, 2019
JUDGE: Pamela Pepper
CASE NO: 2018-cr-145
CASE NAME: United States of America v. Lisa and Robert Hofschulz
NATURE OF HEARING: Motion to Continue Trial
APPEARANCES: Julie Stewart – Attorney for the government
Matthew Jacobs – Attorney for the government
Louis Manzo – Attorney for the government
Brian Nistler – Attorney for Lisa Hofschulz
James Cirincione – Attorney for Lisa Hofschulz
Jonathan Smith – Attorney for Robert Hofschulz
COURTROOM DEPUTY: Kristine Wrobel
TIME: 3:31 p.m. – 4:30 p.m.
HEARING: Final pretrial conference set for January 31, 2020 at 8:30 a.m.
Trial set for February 18, 2020 at 8:30 a.m.

The court noted that it scheduled this hearing because defendant Lisa Hofschulz filed a motion for a continuance of the trial scheduled for October 7, 2019. The motion indicated that defendant Robert Hofschulz did not oppose the motion, but that the government objected.

Counsel for Lisa Hofschulz reported that earlier today he had received an email from Dr. Odell that Odell was unable to testify at the trial. Counsel had anticipated calling Dr. Odell as an expert witness. Counsel indicated that he understood the government's opposition given the imminence of trial, but asserted that he could not provide Ms. Hofschulz with the proper defense without an expert. Counsel did not feel that he could disclose on the record the reason Dr. Odell could not testify.

Counsel for the government argued against a continuance. She explained that she was hamstrung in her ability to respond to the unavailable of Dr. Odell when she did not know the reason for his unavailability. She told the court that she understood that Dr. Odell's license may have been suspended, or his practice suspended, but told the court that the parties had recently agreed that the government would limit its cross examination of Dr. Odell and would not ask about the suspension. Counsel posited that Ms. Hofschulz could call one of the doctors who had practiced with her as an expert. The government expressed concern that with Ms. Hofschulz continuing to practice medicine, an adjournment would put the public at risk; although she had been prohibited from dispensing medication there was no guarantee that she was abiding by that prohibition. Counsel noted that the motion for the continuance had alleged that the government "recently" had provided the defense with thousands of pages of discovery; she explained that those documents were medical records that the government had obtained from the VA and provided to

the defense in an abundance of caution, as a courtesy. Counsel concluded by stating that she was familiar with the court's calendar and knew that it would not be able to schedule a new trial date in the next ninety days, as the defendant had proposed.

Defense counsel offered to share with the court off the record the reason for Dr. Odell's unavailability. The court cleared the courtroom, and defense counsel provided the court with the information regarding Odell's unavailability.

The parties returned to the courtroom, and the court granted the motion to continue the trial. It explained its belief that it was critical to the defense for the defendant to present an expert on best practices and prescription standards, and that it concluded that Odell could not be that witness.

The court scheduled a final pretrial for January 31, 2020 at 8:30 a.m. and a trial for February 18, 2020 at 8:30 a.m. in Room 222. The trial will run into the week of February 24, 2020.

The court **GRANTS** the defendant's motion for a continuance of the trial. Dkt. No. 58.

The court **ORDERS** the following:

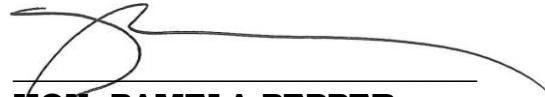
That all parties shall disclose the identities of all expert witnesses, along with reports and supporting documentation, no later than December 20, 2019.

Any party wishing to file motions *in limine* shall do so no later than January 17, 2020 with responses due no later than January 24, 2020.

The parties shall file the final pretrial report no later than January 24, 2020.

Dated in Milwaukee, Wisconsin this 18th day of September, 2019.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge